

FILED

NOT FOR PUBLICATION

FEB 21 2006

UNITED STATES COURT OF APPEALS

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

FOR THE NINTH CIRCUIT

TARZA R. NELSON,

Plaintiff - Appellant,

v.

KIM; et al.,

Defendants - Appellees.

No. 05-15770

D.C. No. CV-02-06027-
OWW/DLB

MEMORANDUM^{*}

Appeal from the United States District Court
for the Eastern District of California
Oliver W. Wanger, District Judge, Presiding

Submitted February 13, 2006^{**}

Before: FERNANDEZ, RYMER, and BYBEE, Circuit Judges.

Tarza R. Nelson, a California state prisoner, appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action against prison officials, alleging violation of the Eighth Amendment in the treatment of his carpal tunnel

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

syndrome. We have jurisdiction under 28 U.S.C. § 1291. We review de novo the district court's dismissal for failure to state a claim under the screening provisions of 28 U.S.C. § 1915A, *Resnick v. Hayes*, 213 F.3d 443, 447 (9th Cir. 2000), and we affirm.

The district court properly dismissed Nelson's Eighth Amendment claim as Nelson failed to allege that the delay in his carpal tunnel surgery led to further injury. *See McGuckin v. Smith*, 974 F.2d 1050, 1060 (9th Cir. 1992) (overruled on other grounds by *WMX Technologies, Inc. v. Miller*, 104 F.3d 1133 (9th Cir. 1997)). The district court also properly determined that defendants' alleged failure to prescribe medicine stronger than motrin did not constitute deliberate indifference to serious medical needs. *See Toguchi v. Chung*, 391 F.3d 1051, 1058 (9th Cir. 2004).

Nelson's remaining contentions are without merit.

AFFIRMED